MOUNTAINLAND
ASSOCIATION OF GOVERNMENTS
Serving Summit, Utah and Wasatch Cities & Counties

29 June, 2009

U.S. Environmental Protection Agency
Air Docket, Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Transferred Via Email.

Attn: Docket ID No **EPA–HQ–OAR–2008–0540**

Re: **Transportation Conformity Rule PM**2.5**and PM**10 **Amendments**
Proposed Rule

Mountainland AOG is the MPO for the Provo-Orem urbanized area encompassing the Utah County boundary in the State of Utah. The MPO is responsible for preparation and adoption of the regions' long and short term Transportation Plans and the conformity of those plans to Mobile Source budgets established in State Implementation Plans (SIPs).

Utah County is designated as moderate PM_{10} non- attainment area.
It is also awaiting final designation for the 2006 $PM_{2.5}$ standard
.
We are thankful for this opportunity to outline our position and concerns as conformity practitioners on the proposed rule and sincerely hope EPA will take our comments into consideration.

Issuing the amendment proposal at this time is finding us, in the Mobile Source sector, having to face serious and challenging uncertainties. Not only the NAAQS is back under re-evaluation for possible changes (pending issues associated with the charges by environmental and scientific organizations as to its adequacy in protecting the public health), but we are also unable to assess our relevant emission analyses compared to results using the very new and "revolutionary" Emissions Model - "MOVES" -EPA is about to declare as replacement to the familiar "Mobile" model.

The Clean Air Act (CAA) requires conformity analysis of Transportation plans to determine that all future plans and projects demonstrate they will not contribute to new violations of the health standards. As far as the Particulate Matter (PM) standard goes – since the 80s with the Total Suspended Particle (TSP) – through PM then PM_{10} and now two consecutive $PM_{2.5}$ standards – only the annual PM_{10} has been revoked. This action will also require some of the non-attainment areas to potentially comply with 3 different PM standards.

Facing over 20 years of mortality and morbidity data, it was finally settled that the much more restrictive current 2006 $PM_{2.5}$ 24 hour standard is the appropriate one, but EPA decided against revoking the previous 24 hour PM_{10} nor the 1997 $PM_{2.5}$ standards.

EPA did revoke the I hour OZONE standard in face of the more restrictive 8 hour standard

EPA chose to retain the various PM standards disregarding the effort, time and expense MPOs and States will incur to comply with investigating the multiple and less restrictive standards.

In areas that are identical in boundaries- each standard needs a unique analysis since the proposal suggests different base year tests (assuming budgets have not yet been established for some or all three standards). It stands to reason that a less restrictive standard can be complied with if the more restrictive can conform. Empirically, that had been proven to be true with the current available modeling tools. If the new standard cannot be conformed with – the area will lapse regardless of the fact that the two less restrictive standards can comply. The introduction of the need to comply with multiple analyses of the same pollutant at 3 levels – seems an excessive use of our limited resources.

Compliance with the CAA intends to protect the public from harmful exceedences of the standard – but even while no ambient air violations incur – it is possible that because of technical inadequacies an area can potentially fall into non compliance.

Take for example our area – Early in the 80s, Utah County had experienced serious violations of the PM ambient air standards – at winter times with extreme cold inversion conditions, the exceedences had reached to nearly twice the standard. Apart from the anthropogenic pollution – we are situated in geographical and meteorological conditions that contribute to trapping the air in the valley for extended periods in severe winters. But even with these natural conditions and the doubling of our population, we have managed to attain the various PM standards up till now – due to a thorough and successful SIP. Since 1992 no PM standard violation had incurred and actually the standard hardly reaches 1/3 of the ambient standard - BUT – from 1996 till 2003 our area had experienced 3 separate non conformity determinations due to "technical" mismatch of SIP budgets being inadequate since they were calculated using Mobile 4 while by 2001 3different mobile models were introduced and practically doubled the calculated emissions. The process of getting a SIP revision and a new mobile source budget was lengthy; arduous if not acrimonious but ultimately got settled. It is this experience; we would like to avoid repeating.

We are stressing that anecdote since we feel that the proposed rule is heading many of the non attainment and maintenance areas in this direction. We do not have the tools of the new model to be able to assess our relevant situation.

Now, for the Base Year proposal:

Barring EPA entertaining a halt to issuing a final rule at this time - We support option 3 – base year 2005. We adamantly oppose option 1 and 2.

Interim tests are intended to be used temporarily – an "interim" analysis tool employed during the time it takes air agencies and their stakeholders to prepare a SIP. In practice, however, it is possible

(and indeed happens) that SIP preparation – and more importantly Mobile Source Budget approval, could extend to unpredictable and uncertain periods of time.

It is imperative for MPOs and conformity practitioners, to have a high level of confidence in the outcome of their conformity analysis in order to provide certainty to the transportation plan and its projects – intended to facilitate, improve and enhance the economic growth and mobility options in the area.

By the time EPA had finalized the 1997 $PM_{2.5}$ area designations; and issued the 2005 amendment; and the grace period for using the new Mobile model was concluded, practitioners had 6 years to learn, understand and test its impacts on emissions- and therefore had the time to make an informed decision on the proposed base year of 2002 for the interim tests.

It is rather unsettling for us, the MPOs to have to address and finalize the proposal for the rule when currently the new Inventory/Rate model MOVES is still in basic draft form and incomplete to the extent that no analysis on criteria pollutants can be performed to assess apples to apples with the Mobile model results we are familiar with and the most current SIPs budgets are based on.

EPA effectively denies us the ability to assess the amount of risk our Transportation Plans will incur with ANY of the base year proposals we are requested to choose from by moving this quickly. We cannot make an informed decision based on a phantom tool that is to be used in the very near future.

No business (Point Sources in particular) would accept operating on an uncertain margin such as the one EPA is suggesting. Businesses operate on a PERMIT that more often than not has a 50% safety margin accounting for growth. They are not affected by the NAAQS immediately – as it does Mobile Sources. Businesses have to negotiate the new terms with the completion and approval of a SIP or if they -on their own request would like to change their scope of operations and permit stipulation. This allows them to operate with certainty no matter what changes to the standard are introduced.

We, on the other hand, are requested to affirm these rule proposals without the hind sight of how it can and will affect our plans. We cannot assess the risk introduced by the new model that will be required by us to use (section 93.111) in the near future. Transportation projects are also a business and failing to comply with contract stipulations can be extremely injurious to the States.

We urge EPA to delay conclusion for this rule until such time that we can make an informed decision. Not learning from ones' history inevitably causes one to repeat it.

In our opinion – and again we stress we do not have the hind sight of assessing the new MOVES model results on our own situation – we believe that the introduction of the tier II and improved fuel and engine technology of recent years -allows us to assume that 2005 as a base year will provide a better margin to allow plans and projects to proceed undisrupted – and provide the time needed to the States and stakeholders to work on a successful SIP.
Base year 2008, and the proposal for a "floating" base year (option 2) is not a prudent choice while our analyses tools are not available for us to evaluate the consequences.

We believe that it is always necessary for EPA to assess and issue amendments to rules and guidance documents as time passes and new information becomes available. We disagree with the notion that by issuing a "floating' base year ruling would eliminate the need to revise guidance.

In conclusion, we would like to reiterate that here in Utah we are committed to addressing our ambient air challenges now and in the future. We would like to do our best to reach the goal of reducing the effect of tail pipe emissions if not eliminate them completely sometime in the future but at this juncture we feel very disadvantaged responding to the current rule proposal.

Sincerely

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